

PATENT COOPERATION TREATY

REC'D 31 MAY 2005



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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P/63663/GPTU77	FOR FURTHER ACTION See Form PCT/PEA/416	
International application No. PCT/GB2004/001064	International filing date (day/month/year) 12.03.2004	Priority date (day/month/year) 21.03.2003
International Patent Classification (IPC) or national classification and IPC H04L12/56		
Applicant MARCONI UK INTELLECTUAL PROPERTY LIMITED et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 17.01.2005	Date of completion of this report 01.06.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Telephone No. +31 70 340- 3774 Perez Perez, J. 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/001064

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-12 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/1 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify)*:
 - ☐ any table(s) related to sequence listing *(specify)*:
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing *(specify)*:
 - ☐ any table(s) related to sequence listing *(specify)*:

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/001064

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-19
	No: Claims	1,20-23
Inventive step (IS)	Yes: Claims	8-13
	No: Claims	1-7,14-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

1 The following documents are referred to in this communication:

- D1: US 2002/085545 A1 (CHATTOPADHYA SANDIP ET AL) 4 July 2002 (2002-07-04)
D2: KOZAKI T ET AL: "PVC reservation on shared buffer type ATM switch for data communication" COMMUNICATIONS, 1994. ICC '94, SUPERCOMM/ICC '94, CONFERENCE RECORD, 'SERVING HUMANITY THROUGH COMMUNICATIONS.' IEEE INTERNATIONAL CONFERENCE ON NEW ORLEANS, LA, USA 1-5 MAY 1994, NEW YORK, NY, USA, IEEE, 1 May 1994 (1994-05-01), pages 391-396, XP010126773 ISBN: 0-7803-1825-0
D3: US-A-5 748 629 (COLSMAN MATTHIAS L ET AL) 5 May 1998 (1998-05-05)
D4: WO 86/02511 A (HUGHES AIRCRAFT CO) 24 April 1986 (1986-04-24)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parenthesis applying to this document):

A telecommunications network comprising
a plurality of network elements, switching means, and a traffic stream controller
wherein (figure 11), for each network element, there is provided a set of outgoing
paths from the network elements to the switching means, one outgoing path carrying
traffic streams for each of the network elements, and an incoming path carrying traffic
streams from the switching means to the network element,
to route traffic streams from each of the network elements to the network element,
the switching means merges each outgoing path carrying traffic streams for the
network element onto the incoming path of the network element (figure 5), and routing
of the traffic streams to the network element is controlled by the network element
using the traffic stream controller (paragraph [0081]).

The attention of the applicant is drawn to document D4 that also anticipates the

subject matter of claim 1. See figure 1 and page 9, lines 23-35 of said document D4.

It should be noted that even if the applicant were to interpret claim 1 in such a manner as to enable him to allege that their subject matter were formally novel, based on non-substantial differences between the features of these claims and those disclosed in documents D1-D4, the subject matter of claim 1 would still not involve an inventive step (Articles 33(1) and 33(3) PCT). Especially as these documents address the same technical problem and disclose the same type of solution as claimed by the applicant.

3 INDEPENDENT CLAIM 23

Claim 23 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined.

The vague and general wording of claim 23 leaves the reader in doubt as to which technical features from the description and drawings claim 23 refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.

4 DEPENDENT CLAIMS 2-7, 14-22

Dependent claims 2-7, 14-22 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step. See documents D2 and D3 and the corresponding passages cited in the search report.

- 5** The combination of the features of independent claims 1 and 8 is neither known from, nor rendered obvious by, the available prior art. It is suggested therefore that a new independent claim be drafted to include these features, bearing in mind that the features known in combination in document D1 should be placed in the preamble of such a claim in accordance with Rule 6.3(b) PCT.